

EXHIBIT Y

MICHAEL D. ROWLAND
UNITED STATES vs STATE OF GEORGIA

June 09, 2022

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA,
Plaintiff,
vs.
STATE OF GEORGIA,
Defendants.

) CIVIL ACTION
) NO. 1:16-cv-03088-ELR
)
)
)
)
)
)
)

VIDEOTAPE DEPOSITION OF
MICHAEL D. ROWLAND

Thursday, June 9, 2022, 9:02 a.m., EST

HELD AT:

Robbins Alloy Belinfante Littlefield LLC
500 14th Street, N.W.
Atlanta, Georgia 30318

WANDA L. ROBINSON, CRR, CCR, No. B-1973
Certified Shorthand Reporter/Notary Public

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1 All right. Get to the substance.

2 Are you familiar with the GNETS strategic
3 plan?

4 A I'm not familiar with it, no. I know it
5 exists, but I haven't looked at it, never -- I
6 didn't have a role to play in creating it.

7 Q Does the Department of Education have a
8 role to play in it?

9 A Again, I just -- I don't have any specific
10 knowledge of -- other than the fact that I know that
11 was, as I was transitioning out of my role as a
12 director into a field position and then ultimately
13 retiring, I know that was something that was being
14 worked on, but -- and I had heard reference to it,
15 but I didn't have any direct involvement in, in it.

16 Q Okay. Then are you familiar with the
17 Facilities Conditions Assessment Project?

18 A Yes.

19 Q Could you describe to me generally what
20 that entailed?

21 A Okay. So I was the director when the
22 Governor's Office put the \$14 million into the
23 budget for, for GNETS facilities. And it was --
24 when the budget was passed, my boss, who was the CFO
25 at the time, came down and said, okay, I don't know

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1 where this money came from or what we're supposed to
2 do with it but you got to figure it out.

3 Okay. And, look, it's okay. I mean
4 that's -- so one of the things -- and this was, this
5 was me.

6 We do -- before we give out money to
7 school systems, we require them to create a needs --
8 to hire an architect and do a needs assessment.
9 Well, I don't care whether they hire them or not.
10 The architect will do it for free but you got to
11 have an architect to do a needs assessment for the
12 things that are going in your plan.

13 We had -- and these numbers might not be
14 exactly right, but they are from my memory. There
15 were 46 different locations, based on a list I was
16 given from the program staff, that said, here's
17 where all these kids are located. These are
18 addresses.

19 And some of them are at schools that in a
20 Local Facility Plan, some of them are at -- well,
21 let me -- again, in my world it's easy to use school
22 and facilities interchangeably, but they are really
23 different. Some of these students were at
24 facilities, in the facility plan. Some of these
25 students might have been in facilities that were not

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1 in a facility plan, and some were in phased-out
2 facilities, and some were in -- so, so, it just
3 occurred to me the first thing we needed was a needs
4 assessment.

5 So I asked for permission to use a portion
6 of that 14 million to engage an architectural firm
7 that would conduct these needs assessments. And I
8 got that permission. I went through the selection
9 process, and we hired a firm.

10 And in that summer -- you'd have to tell
11 me the year. If you tell me the year, I'd say
12 you're right because I don't remember the years.
13 But in the summer of that year the firm that we
14 hired did what we would call a non-destructive site
15 evaluation of each facility, each one of those
16 facilities that was on the list, provided to us by
17 the program staff.

18 They had two or three teams; divided the
19 State up into quadrants. You know, one team went
20 here, one team went there. And that function went
21 on all summer.

22 As a kick-off to that, we made a -- we
23 made the decision to -- myself and -- I know I was
24 involved. Some of the program staff at GNETS was
25 involved in this. And then representatives from --

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1 the team from the architectural firm that we hired,
2 they put together a -- they were going to do --
3 again, if I remember correctly, they were going to
4 do these site visits in about -- in clusters, based
5 on where they were located, just for efficiency.

6 And so we created kind of a test case of
7 three or four sites that we would go look at
8 together. They would do their work. We would be
9 there watching it, looking at it, giving feedback,
10 say look at this, don't -- make sure you look at
11 that. They would say we can't look at this but we
12 can look at that.

13 And that became sort of a baseline from
14 what the teams would do moving forward, to visit the
15 remaining sites, and that function went on during
16 the summer.

17 And in some time in the mid to late July
18 time frame, I think we got a draft report from, from
19 the architect.

20 Q Thank you very much for that overview.

21 I want to back up to a few things you
22 said.

23 You said you received a list of 46
24 locations from program staff. Could you tell me who
25 program staff are?

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1 MS. TAYLOE: Well, let me rephrase that.

2 Q So the field consultants went on the
3 intermediate round of facilities visits. Do you
4 know if anybody from the Department of Education
5 went with the architecture's round of assessments?

6 A I don't believe so, no.

7 Q Do you remember what the results were of
8 the preliminary assessment you said you received in
9 the summer? What happened when you got the
10 preliminary report?

11 A There were, there were a number of
12 facilities that the report documented both in
13 narrative form and with supporting pictures that
14 were in very bad condition.

15 And so we shared that information with the
16 State Board of Education.

17 Q And what did they do with that
18 information?

19 A The, the -- ultimately, the State Board
20 chair, if I remember this correctly, wrote a letter
21 to those -- I'm going to say programs. Now, you
22 know, if RESAs were the agencies, then you can say
23 that was RESA, but superintendents are on those
24 boards of control. So the superintendents really
25 indirectly or directly were the target of the

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1 information.

2 And it was my understanding -- or my
3 memory -- and I saw the letter. Probably -- I just
4 don't remember the specifics of it, other than I
5 think it was aimed at trying to say those districts,
6 you've got some real issues and we're giving you an
7 opportunity to fix them.

8 To the extent that the State Board had
9 whatever authority it had -- which really is outside
10 of my purview. I don't really know ultimately what
11 authority they had, but I do know the letter went
12 out from the State Board chair that said we've
13 gotten information that says this isn't very good,
14 we need you to do something about it.

15 Q And was your understanding that the State
16 communicated to the superintendents that the
17 Department of Education would no longer support
18 students being housed in those facilities?

19 A I don't really know how -- I think, I
20 think -- I think certainly the intent of the letter
21 was to force a conversation on these superintendents
22 that hopefully would help them come to their own
23 conclusion about the inadequacy of where they housed
24 these kids and make decisions without having to be
25 force into anything.

1 And my memory is that that, that work --
2 that was typical. That was in general what
3 happened. Now, that didn't mean I didn't have to go
4 sit down with some of them and walk through what
5 some of their operations were, but -- and we did
6 that at their request.

7 So I think the intent of the letter was
8 certainly to, to heighten the sense of urgency with
9 these superintendents over how they were housing
10 these -- over where they were housing these
11 populations.

12 Q So it's your recollection that none of the
13 superintendents or school districts felt they were
14 instructed to close facilities?

15 MR. PICO PRATS: Objection in terms of
16 there's a legal conclusion or any type of
17 knowledge of legal fields, that's outside of
18 his knowledge.

19 MS. TAYLOE: Okay. I'll address that
20 through documents then.

21 Let me -- I'm going to start with what was
22 previously marked as Exhibit 86.

23 (WHEREUPON, Plaintiff's Exhibit-86 was
24 marked for identification.)
25

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1 BY MS. TAYLOE:

2 Q I'm referring to the exhibit that has been
3 produced by the State. It's marked GA00196569, and
4 it is an email from Mr. Rowland to Ted Beck, dated
5 December 1st, 2015.

6 Are you familiar with this document?

7 A Yes, ma'am.

8 Q Do you see at the beginning of the second
9 paragraph where you're talking about narrowing the
10 list of facilities to be visited by our consultants?

11 A Yes.

12 Q What was the basis for narrowing the list?

13 A Yeah, I think in reading on down, what I
14 think I'm referring to is the fact that if we had --
15 and we've talked about this earlier.

16 If we had, if we had knowledge that GNETS
17 students were being served in a facility that was
18 already in the Local Facility Plan, then that
19 facility had a way of earning state funds for
20 capital improvements.

21 So we wouldn't look -- those, those --
22 those wouldn't be reviewed.

23 But these other facilities that were not
24 in Local Facility Plans would.

25 Q So maybe I misunderstood. When I asked if

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1 you were looking at all of the facilities or only
2 those for -- that were eligible for state grants,
3 you said all of them. Did I misphrase --

4 A So -- in the sense of that statement, when
5 a school district applies for funding for a facility
6 that's in their local facility grant, plan, that is
7 a state grant for facilities, because if it's
8 funded, those funds are -- so, so in the -- in the
9 true sense of this, the definition of a state grant,
10 if, if -- let's say a GNETS program was housed in a
11 facility that was in the Local Facility Plan and
12 that summer the district applied for a new roof for
13 that school, well, that's a state grant to that, and
14 it was funded.

15 Q Okay.

16 A Then that's a state grant.

17 Q I understand the distinction. So let me
18 rephrase the question.

19 So was this facilities condition
20 assessment you looked at all GNETS facilities or
21 only those GNETS facilities that would be eligible
22 for the 14 million specific facilities grant --

23 A Yes.

24 Q -- that was at issue?

25 A I think that's correct. What we were

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1 trying to do is target just the facilities that
2 would be eligible for applying for the grant money,
3 because the grant, as I understood it, it was
4 intended to be competitive.

5 We wanted it to be based on this need
6 assessment. So you at least have to apply for
7 things that have been identified as needs, and if
8 you already have a facility in a Local Facility
9 Plan, there's a mechanism for that already
10 established through department policy.

11 But this other was any facility that fell
12 outside of that.

13 Q Okay. So there could be some facilities
14 that might have been disrepair but otherwise
15 needing, needing repairs that might not have been
16 assessed because they were already covered by an
17 LFP?

18 A That's correct.

19 Q Okay. And then other questions on this,
20 this email was copied to Clara Keith and Deborah
21 Gay.

22 Can you tell me who they are?

23 A Debbie Gay at the time, if I remember
24 correctly, she was -- I don't remember her title but
25 she was over special education programs at the

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1 Was that in your connection with her as a
2 colleague or was that her role --

3 A Whatever role she was playing.

4 Q Whatever role. Thank you.

5 The last part on this document, it talks
6 about the GSFIC is working on the RFQ. The RFQ is
7 request for qualifications for design professional,
8 and that is the process you talked about before,
9 about getting the architectural team on board to do
10 the assessments?

11 A Yes.

12 Q And you already made reference to the
13 checklist. So I just want to make sure I'm
14 understanding your reference. Is this the checklist
15 where scores were rated, different categories were
16 rated from one to five? You know, from poor to like
17 new, or critical to like new?

18 A I believe so.

19 Q And we can talk about the other later.
20 Okay.

21 Then next -- may I ask momentarily to see
22 the full version of the document you have because
23 yours has attachments?

24 Thank you.

25 Since this was previously marked as

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1 Exhibit 86, I would like to note that the document
2 produced by the State at GA00196572 is attached as
3 an exhibit to this document. I ask, did you see if
4 that's the correct list you've been talking about?

5 It's not the first attachment. It's
6 behind the blue sheet of paper.

7 A Yes.

8 Q Okay. Thank you.

9 So that's the document that field
10 consultants used when they went out to the different
11 facilities to do assessments?

12 A Yes.

13 Q Is that also a document that the
14 architectural team used when they went out to do
15 assessments?

16 A I really don't remember -- I would -- my
17 memory is that their -- whatever documents they used
18 to do those assessments had different detail, but I
19 just don't remember.

20 I mean if you showed it to me and said
21 this is what they used, I certainly would agree. I
22 wouldn't have a way not to agree with that, but I
23 don't think it was this exact document. It could
24 have been but I don't remember it that well.

25 Q Okay. Thank you.

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1 MS. TAYLOE: Then I'm going to --

2 BY MS. TAYLOE:

3 Q Were there any facilities that did not
4 want to have -- I'm sorry.

5 Were there any superintendents or school
6 districts that did not want to have their facilities
7 assessed?

8 A I'm not aware of that, no.

9 I'm not saying that -- I really don't -- I
10 don't remember having any trouble getting the
11 assessments done.

12 Q I know it was a long time ago.

13 MS. TAYLOE: I'm going to provide the
14 court reporter document GA00196767, and this
15 will be Exhibit No. 115.

16 (WHEREUPON, Plaintiff's Exhibit-115 was
17 marked for identification.)

18 BY MS. TAYLOE:

19 Q This is an email from Mr. Rowland to Doug
20 Suits, dated January 7th, 2016.

21 Are you familiar with this document?

22 A Yes. So I stand corrected.

23 I mean I -- again, if you showed me that
24 first and asked me the question, I'd say, yep, that
25 happened. But, you know, being able to remember

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1 that one specific just, just couldn't do it.

2 Q I don't mean to trick you. I was just
3 hoping to avoid having to do so many documents, and
4 what we can do by memory, we can just do it that
5 way.

6 A You're talking about one instance out of I
7 don't know how many emails that went back and forth.
8 But obviously seeing that I'm reminded of the
9 situation. But I think you also see that that no
10 was really not an option.

11 Q So the reason I'm curious about this is,
12 again, trying to figure out the purpose of the
13 facility assessment, since it was really about who
14 was eligible for grants.

15 You see the email you're responding to
16 indicates that the director of the program in Cobb
17 County did not want to make an application for
18 funding and yet they were instructed they had to
19 have the facility visit anyway, and I'm just curious
20 about why that was?

21 A Even though -- even though I knew the
22 ultimate purpose of the exercise was to create this
23 basis for which GNETS program would apply for funds,
24 whether this was something I determined on my own or
25 felt like I had gotten direction on, it never

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1 occurred to me that not going through the needs
2 assessment was an option. You could go through the
3 needs assessment, and the needs assessment could
4 determine you've got the Taj Mahal, but you're going
5 through these --

6 Q Is it fair to say you just thought it was
7 important for the state to know the condition of the
8 assessments whether or not --

9 A Exactly.

10 THE COURT REPORTER: Say it again.

11 A My apologies.

12 Q Is it fair to say you thought it was
13 important for the State to know the condition of the
14 facilities whether or not they were planning on
15 applying for a grant?

16 A Yes.

17 Q Thank you.

18 MS. TAYLOE: Now I'm going to refer to
19 what was previously identified as Plaintiff's
20 Exhibit 46.

21 (WHEREUPON, Plaintiff's Exhibit-46 was
22 marked for identification.)

23 MS. TAYLOE: I have an extra copy but we
24 can use the same number for it.

25

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1 the hard copy document that was actually marked
2 included the printed attachments.

3 So if you all have your copies that you
4 received when we first marked it, it also has
5 the copies of as attachments.

6 (Discussion ensued off the record.)

7 MS. TAYLOE: I am going to give the court
8 reporter a document produced from the State
9 labeled GA00279624 and ask that be introduced
10 as Plaintiff's Exhibit 118.

11 (WHEREUPON, Plaintiff's Exhibit-118 was
12 marked for identification.)

13 BY MS. TAYLOE:

14 Q Are you familiar with this document?

15 A Yes.

16 Q This is an email from you to Ted Beck,
17 dated May 31st, 2016.

18 In the second paragraph you indicate that
19 you and Nakeba accompanied two teams from -- that
20 was 2WR, the architectural firm?

21 A Yes.

22 Q So were these the pilot visits you talked
23 about before?

24 A Yes.

25 Q Where it says: "The purpose of the trips

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1 was to work through expectations and get a baseline
2 of GaDOE's expectations."

3 Can you tell me what those expectations
4 were?

5 A I don't think we knew until we went on the
6 visit, honestly. But what I remember about the
7 exercise was that 2WR would go and conduct the visit
8 per some standards that were, that were available
9 for facility condition assessments based on
10 architect's stuff, and that what we were really
11 doing was just witnessing what they were doing to,
12 to understand -- to agree they were on the right
13 track.

14 I don't have any memory of saying don't do
15 this or do that, although that very well could have
16 happened. It was more of a -- they wanted us, you
17 come watch what we're doing. If you see anything
18 that you think we shouldn't be doing or should be
19 doing, you know, just give us the feedback.

20 That's my memory.

21 Q And where you said, "I think we will glean
22 the kind of information that will inform our
23 decisions moving forward," what was that in
24 reference to?

25 A I have no idea. I don't know. I think

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1 it's exactly what I -- I don't know what decisions
2 there were to be made moving forward, but if there
3 were decisions to be made moving forward, this
4 facilities condition assessment was necessary to
5 inform those decisions.

6 Now, obviously, we know one of those
7 decisions was to inform future applicants for the
8 grant but short of -- I mean that was the purpose of
9 the exercise, was to create a basis for these
10 centers, or programs, whichever it turned out to be,
11 to be able to make an application.

12 Q So one of the purposes would have been to
13 be able to notify the facility superintendent or
14 owner of the kinds of deficiencies they might be
15 eligible to request grants to repair?

16 A Yes.

17 Q Thank you. And they might -- they might
18 have been used for something else, but that may or
19 may not have been known at the time?

20 A Yes.

21 MS. TAYLOE: I'm going to give the court
22 reporter a document produced by the State
23 GA00197246 and ask it be identified as
24 Plaintiff's Exhibit 119.

25 (WHEREUPON, Plaintiff's Exhibit-119 was

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1 marked for identification.)

2 BY MS. TAYLOE:

3 Q Are you familiar with this document?

4 (Witness reviews exhibit.)

5 A Yes.

6 Q Okay. Who is Sarah Morris?

7 A Sarah worked, and still does, in the
8 Facilities Department.

9 I don't -- at the time -- she was with us
10 and she left and she came back. So what I'm
11 stumbling over is I'm not really sure what role she
12 was in at the time, but I do know that -- I think by
13 this point, you know, I was giving this information
14 back to Pat Schofill, who was our director, and
15 Sarah had some role to play on the funding side.

16 She was our grants administrator in the
17 early -- at some point, and she left the department
18 and we hired her back as a grants administrator. So
19 she may have had -- her role may have been in the
20 process of getting the money out to school districts
21 when -- or the entities that manage the GNETS
22 programs that were doing the work when the time
23 came.

24 Q Okay. And she said she's attaching the
25 list, GNETS list, ranked by the GaDOE Facilities

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1 team.

2 A Yes.

3 Q Is that -- which set of consultants is
4 that? Or who is the GaDOE Facilities team?

5 A That's the field consultants that I
6 referenced earlier.

7 Q Okay. And the scale she's referencing
8 there is the same one to five scale we talked about
9 before, where one is critical and five is new or
10 like new?

11 A Correct.

12 Q Then she talked about a formula for
13 obtaining a ranking. Can you tell me what that is
14 in reference to?

15 A Not by memory, no. I mean I -- so much
16 this -- you know, I want to be clear. Nothing would
17 make me happier than to tell you everything you're
18 asking me with perfect fidelity. There was so much
19 -- and so much of this now I'm begin -- I see -- we
20 were doing kind of make up -- just do it as you
21 figure out and try to do the best thing.

22 And so I am confident we used some formula
23 to get to that ranking. Whether it was an averaging
24 or a formula on a spreadsheet or -- but if you
25 showed it to me, I'd say I remember that. But

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1 without that, I just -- I don't remember what that
2 formula looked like.

3 Q Okay. I think I can -- I think I can find
4 one to address that.

5 MS. TAYLOE: I'm going to ask Ms. Lill to
6 screen share the attached facilities report,
7 which is GA00197248.

8 Do we need to mark that as an exhibit?

9 BY MS. TAYLOE:

10 Q Mr. Rowland, you have been granted control
11 of that. So if you want to scroll up and down on
12 that, you can.

13 Have you seen this document before?

14 A Yes.

15 Q Can you describe it, please?

16 A So the heading of the document is "GNETS
17 Facilities Not Active In Local Facility Plans."

18 So I mean this appears to me to be a list
19 of the GNETS programs that we couldn't find evidence
20 were housed in facilities that were in local
21 facility plans.

22 The cells highlighted in red, based on my
23 memory, was those locations that had a facility
24 condition assessment score of .4 or lower -- well,
25 lower than .4. Because .4 is not in red.

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1 Q And what would be the consequence of
2 having a facility score of lower than .4?

3 A Well, so I do -- let me say this about the
4 score. Given the decimal that I'm seeing -- I think
5 this is the score that came out of the facility
6 condition assessments done by 2WR.

7 So, again, my memory is part of what we
8 have asked them to do in this process was to see if
9 they could boil this down to a facility condition
10 assessment ratio where the closer that ratio got to
11 zero, the more deficient, let's say, the building,
12 the facility would be, and the clearer it got to
13 one, the better it was.

14 And so based on this, my memory is this
15 was a spreadsheet we created -- not the list of
16 spaces but the score coming from their condition
17 report.

18 And, again, at this point in the process,
19 I don't think I knew the answer to what does -- what
20 happens to a facility that has a condition
21 assessment lower than .4, other than to say these
22 aren't very good. And then that, that begets the
23 question, all right, what happens next.

24 I think that's where we were in the
25 process at that point.

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1 Q And you said before you believed that some
2 facilities were encouraged to consider options based
3 on those scores, consider remedial actions based on
4 the scores?

5 A Yes.

6 Q Okay. But is it not your understanding,
7 looking at this document, that these ones marked in
8 red were the ones that were closed by the State?

9 A Well --

10 MR. PICO PRATS: And objection for -- I
11 think it's misrepresenting what he said in
12 connection to the State closing.

13 BY MS. TAYLOE:

14 Q Did you understand these facilities closed
15 after the results were shared with them?

16 A I'm looking at the list to see, and it --
17 again, I wish I could tell you I remember what every
18 action was, but what I know is we shared this
19 information with the Board, State Board.

20 A letter went out to these facilities from
21 the State Board chairman, and it is my belief, my
22 memory, that in most cases, if not all, that these
23 programs made different arrangements for these kids.

24 There's a, there's a meaning to the word
25 "closed" that I'm not comfortable with, if that

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1 helps you understand my -- and I don't mean to be
2 vague. I just, you know -- the purpose of the
3 exercise to me was to say, you know, guys, look,
4 we've been through this process, nobody's out to
5 hurt anybody. We're trying to do things, what's
6 best for kids, and this has been -- this is the
7 situation.

8 And it is true that not many
9 superintendents liked to get phone calls from the
10 Department or letters from the State Board chair,
11 but -- so I know they wanted to try to do better,
12 and I think in most, if not all, of these cases they
13 did.

14 Q So maybe am I using the word "closed" has
15 been confusing because it has different connotations
16 and facilities than I was thinking of it.

17 Would you say after -- would you say these
18 nine facilities relocated their students after --
19 the ones that were marked in red relocated their
20 students after getting those reports?

21 A Yes, I think that's fair to say.

22 MS. TAYLOE: I would like to refer to what
23 was previously introduced as Plaintiff's
24 Exhibit No. 91.

25 I'm afraid I don't have a copy for you,

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1 because...

2 (WHEREUPON, Plaintiff's Exhibit-91 was
3 previously marked for identification.)

4 MS. TAYLOE: It's GA01486054.

5 (Witness reviews exhibit.)

6 BY MS. TAYLOE:

7 Q Have you had a chance to familiarize
8 yourself with this document?

9 A Yes.

10 Q Okay. This is an email from Stacey
11 Suber-Drake to Nakeba Rahming and Clara Keith, dated
12 July 25th, 2016. And it attaches a letter from the
13 Georgia State Board of Education signed by Michael
14 Royal, chairman of the State Board of Education.

15 Is that correct?

16 A That's correct.

17 Q Do you see at the end of the first
18 paragraph, where it says: "Therefore, students
19 receiving services at this facility must immediately
20 be transitioned out of the site before beginning --
21 "before the beginning of the school year."

22 A Yes.

23 Q Is that consistent with your understanding
24 of the steps that were taken after the facilities
25 conditions assessment was completed?

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1 A Yes.

2 Q It says: "We're directing staff to assist
3 you and provide guidance throughout this process so
4 it may provide the best educational opportunities
5 for all students in a safe and positive
6 environment."

7 You see where it says that?

8 A Yes.

9 Q Were -- which staff was directed to assist
10 and provide guidance to the -- the people these
11 letters were directed to?

12 A The facility services staff. Myself and
13 potentially field consultants that served those --
14 that area.

15 Q And would you say, was that assistance in
16 the form of the GNETS grant or in terms of
17 relocating, or both, or something else?

18 A At this time, in relation to the letter,
19 it was with relocating.

20 What we required of the GNETS programs was
21 when you find a suitable location, when you find a
22 location that you propose as suitable, you contact
23 me and I go look at it, and I say yes or no.

24 Q And did you also help them find facilities
25 that had available instructional units that they

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1 BY MS. TAYLOE:

2 Q Are you okay going a few more?

3 A Absolutely.

4 Q I want to talk a little bit about the
5 facilities remediation plan next that came after the
6 facilities condition assessment. Is that correct?

7 A Yes.

8 Q Can you tell me -- just give me an
9 overview what the facilities remediation plan was?

10 A Yeah, I had really forgotten about that.
11 Again, what I remember was that -- and I
12 wish I could tell you that we started this process
13 knowing how it would -- this was, this was really
14 like building an airplane while you fly.

15 And so at some point as a team -- and
16 there was -- I don't want to mislead you I was
17 making these decisions in a vacuum. I was obviously
18 working with either Pat Schofill, maybe our
19 facilities consultants, Clara, Nakeba, and Stacey
20 and all these people to think about.

21 So we have this report now that says -- it
22 kind of had layers. Layer one -- the first, most
23 immediate thing was we found these facilities that
24 were -- that needed immediate -- that needed
25 immediate attention, needed to be attended to

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1 immediately. And that took place.

2 Then we had a report that said here's a
3 condition of the facilities that remain, and when we
4 release the application for funding, you should be
5 applying for needs that have been identified in the,
6 in the plan -- or in the facility condition
7 assessments.

8 Understand that in the facilities world,
9 \$14 million is not a lot of money. So intuitively
10 we knew it wasn't enough money to meet all the needs
11 that had been identified in the condition
12 assessments, but we took the position as a
13 department that that didn't absolve the programs
14 from developing plans to remediate those needs.

15 Again, very much in keeping with the K-12
16 focus on you have a Local Facility Plan. You can't
17 get to everything in it in one year, we know that,
18 but that doesn't mean you shouldn't be -- you
19 shouldn't be planning to meet those needs.

20 So, so -- so part of the requirement was
21 now that we've done this work, you can't just say,
22 well, we want to apply for the money, so we're off
23 the hook. No. You have a report and it shows
24 deficiencies -- needs, not deficiencies. It shows
25 needs. We want to know how you're going to address

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1 those needs.

2 Q So would it be fair to say that the
3 options available to facilities after receiving the
4 facilities condition assessment report included
5 relocating the students or submitting a plan to make
6 corrections, addressing needs with or without state
7 grant funds?

8 A Yes.

9 Q And if the facility operators chose not to
10 continue to serve the students in that facility,
11 were they required to provide you with an exit
12 strategy?

13 A Yes.

14 Q And what would that exit strategy entail?

15 A It would be different for every situation.
16 Again, I think what our -- it's really hard to
17 remember the thinking at the moment, but based on
18 the way I know myself, what I would -- what I think
19 we were looking for is, look, you give us -- one of
20 the things I want to make sure you understand. This
21 is an awful lot of work, and at some point I thought
22 it was all my work to do. By me, I mean the
23 Department.

24 So what I wanted to do is give this work
25 back to the people at the ground floor who ought to

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1 know how to look after their kids better than
2 anybody else, and the way to do that is to say you
3 give me the strategy -- again, me meaning the
4 Department -- give us the strategy and then we'll
5 react to it.

6 So it wasn't -- and my, my belief is that
7 ranged anywhere from that's an excellent strategy to
8 that's okay but here are some -- here's some
9 feedback like to see you address, and all the way
10 down to that's not going to work, got to have
11 another one.

12 And I just -- I don't remember
13 specifically -- I mean if you showed me a document
14 and said here's one that was submitted, I could look
15 at it and say, yeah, that makes sense.

16 But, but I think we as a Department felt
17 like while we may have started out trying to get a
18 condition assessment so that we could figure out how
19 to competitively award a pot of money, it really
20 evolved into, okay, now you can't not know what you
21 know, how we're going to address it.

22 Q Okay. Before -- and I will go through
23 some documents with you to address specific
24 examples, but as part of that overview, after
25 facilities either applied for a grant or proposed

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1 would be not?

2 A Yeah. I mean -- they would -- you might
3 remove an air filter cover, for example, and inspect
4 the air filter to see if it had been changed.

5 There was some ductwork probably that you
6 could get to and see without necessarily having to
7 go behind a wall or into a ceiling, depending on
8 some of them may have been exposed.

9 But other than knowing the --
10 theoretically, they could determine what year the
11 HVAC system had been installed.

12 Q How about lead in the water?

13 A No, no -- no.

14 Q Or radon or any other kind of exposure
15 like that?

16 A No.

17 Q Okay. Are those known to be -- with the
18 exception of ventilation, are the things I listed
19 known to be more common in older buildings?

20 A Yes.

21 MS. TAYLOE: I'm going to introduce a
22 document from the State GA00198597, and ask it
23 be marked as Plaintiff's Exhibit No. 123.

24 I'm sorry, that one has been already been
25 marked as Plaintiff's Exhibit 88. I'm sorry.

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1 (WHEREUPON, Plaintiff's Exhibit-88 was
2 previously marked for identification.

3 MS. TAYLOE: I apologize.

4 (Witness reviews exhibit.)

5 A Okay.

6 Q This is an email from you dated March
7 30th, 2017 to a number of email recipients.

8 Can you identify the recipients by
9 category?

10 A Obviously, it went to -- I think what I'm
11 looking at is GNETS directors and superintendents.

12 Q And can you -- it says you're asking for a
13 letter of assurance for the facilities grant
14 application process.

15 Can you describe the role of the letter of
16 assurance?

17 A Again, if you, if you put one in front of
18 me, I can certainly remember what it looked like,
19 but I think the intent was instead of creating this
20 methodology where the State would say here's what
21 you have to do, and we're going to come by and
22 visually inspect it, there was a methodology of
23 creating a list of things that these people, as the
24 fiscal agent and head of the school system, people
25 with authority, would have to attest to that you had

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1 done these things.

2 And I do not remember what was on the
3 list. And if I saw it, I might have a different
4 opinion about what its intent was but that's
5 typically what you use a letter of assurance for.
6 Instead of me saying you did it, I want you to say
7 you did it.

8 Q Okay. I think this is a different one,
9 because this is in advance of the --

10 A Was this the one saying they intended to
11 apply or not apply?

12 Q Yes.

13 A Okay. Well, again, if you show it to me,
14 I might have a different answer. But I think --
15 there were two things -- so that sets up two
16 thoughts in my mind: One was we were trying to find
17 out who's going to apply and who's not. And perhaps
18 that's what this -- that's this letter was about.

19 But I think later on, and as part of the
20 application, there was a letter of assurance, too.
21 Although I might be misremembering that.

22 Q All right. I'm going to -- I don't have
23 copies but we can -- it will help you to see the
24 document?

25 A Yeah.

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1 Q So you have it attached to your.

2 A Okay. I got it.

3 Q 00198599.

4 MS. TAYLOE: If you can pull it up so
5 counsel can see it.

6 A Yeah. So I think this is -- this is
7 pretty much what I remembered.

8 I mean the letter of assurance had, had --
9 the first thing it wanted to know was, you know, if
10 you return this, you're telling us you intend to
11 make an application for these funds, and if you
12 intend to make an application to these funds, you
13 attest to these eight things.

14 That you need to either understand, will
15 do, comply. This is where, you know, you understand
16 that it's a competitive award, so you could, you
17 could not get anything. You understand you have to
18 comply with all the State and federal laws and State
19 Board rules and guidelines that go along with it.

20 The grant is a reimbursement grant. So
21 everybody knew that up front. If you don't think
22 you have the money up front to pull off the project,
23 don't apply.

24 You agree -- one of the issues we ran into
25 is, okay, if we give you this money and you

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1 refurbish this facility, what's the requirement for
2 how long you're going to stay in it. So that period
3 was established, that 10 years.

4 And these other things that are listed
5 there.

6 Q The 10-year one was the one I wanted to
7 ask you about.

8 A Okay.

9 Q Because I understand like fiscally it
10 makes sense you wouldn't want to invest a lot of
11 money and then have the building abandoned the next
12 year. I understand that's the intent behind it.

13 Were you aware of any concerns by
14 superintendents or programs that they couldn't be
15 sure they would be in there for 10 more years, or
16 that it restricted their flexibility in any way?

17 A Well, what we tried to do was, was cover
18 that in that sixth point by saying in the event it
19 becomes necessary to move a GNETS program from the
20 facility from which the grant was expended, you just
21 have to get prior approval from the Department.

22 I don't think -- I mean certainly
23 everybody understood that, that -- you know, there's
24 a lot of uncertainty in education when it comes to
25 facilities, particularly as programs evolve.

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1 So I think we tried to leave -- I wouldn't
2 really call it an out, but at least leave the
3 applicant with the understanding that, look, if you
4 in good faith take the money, if you in good faith
5 do the work, if you in good faith plan to stay there
6 for 10 years, and three years in something happens
7 that requires -- you think necessitates a move, just
8 get with us and let's work through it. We'll work
9 through it somehow.

10 Q Did you have any ideas or discussions
11 about what would account for viability? Or
12 viability is a different letter. I'm sorry.

13 Becomes necessary, what would qualify as
14 necessary to move a GNETS program?

15 A I'm sure we did. I don't remember what
16 those specific conversations were, but I can tell
17 you in my own mind, from my own experience, but...

18 Q What would you think those would be?

19 A Well, I mean most --

20 MR. PICO PRATS: Objection, as far as it
21 causes him to speculate about it.

22 MS. TAYLOE: He just said he could say
23 from his own experience.

24 MR. PICO PRATS: You can answer.

25 A Well, I mean if GNETS operates the way

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1 going into these facilities wasn't with an eye for
2 do the spaces meet program needs, because I didn't
3 really understand the nature of the program needs
4 relative to the technical experience -- I mean
5 technical requirements, delivered instruction to
6 those kids.

7 Q What were your main take-aways from the
8 facility conditions assessments when they were
9 completed about the conditions at GNETS facilities?

10 A It was very similar to what we find
11 statewide. There were some school districts and
12 some entities that were providing quality facilities
13 for those students, and there were some school
14 districts and facilities that were not, and
15 everything in between.

16 Q Were there any kind of things that were
17 more commonly issues at GNETS facilities?

18 A I think in general the idea that -- I
19 don't know how -- it's dangerous to quantify because
20 many sounds like a lot, and I don't know what the
21 numbers are.

22 But what I do know is that, that in some
23 cases students were housed in facilities that had
24 been phased out of facility plans for a long time,
25 and where it appeared school districts just hadn't

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1 put the kind of resources into those facilities that
2 they might.

3 Q And -- let me back up little bit.

4 Did you agree with the recommendation to
5 close --

6 MS. TAYLOE: I'm sorry.

7 Q Did you agree with the recommendation to
8 relocate the students from the nine facilities in
9 the summer of 2016?

10 A Yes.

11 Q Did you think there were other facilities
12 that it might also have been beneficial to relocate
13 students from?

14 A I don't remember one particularly, for
15 example, that I felt like we missed, especially
16 given the fact that we were offering a grant for
17 facility improvement.

18 So there's not one that stands out, I
19 think is what I'm trying to say, other than the nine
20 that were identified in that report.

21 Q Do you remember one of your field
22 consultants saying that they were haunted by the
23 gross inadequacies -- inadequacies that they saw?

24 A If you say they said it, they said it.

25 I don't remember that specifically, but if

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1 that we discussed earlier?

2 A Yes.

3 Q So you sent this to Emily and Clara
4 attaching the RFQ; is that correct?

5 A That is correct.

6 MS. TAYLOE: Then I would like to look at
7 the next -- the attachment ending 6913.

8 So that would be GA00196913, and identify
9 that as Exhibit 129, please.

10 We'll mark it as a separate one.

11 (WHEREUPON, Plaintiff's Exhibit-129 was
12 marked for identification.)

13 MS. TAYLOE: It's marked as an attachment
14 but it's not in one document.

15 (Witness reviews exhibit.)

16 A Okay.

17 Q Do you see on -- do you see on Page 2, in
18 Item No. 1, where it says, "The Georgia Department
19 of Education, and local school districts, operate 48
20 GNETS locations throughout the state of Georgia"?

21 A Yes.

22 Q And that they "are in need of various
23 repairs and upgrades to meet the needs of students
24 in the GNETS program."

25 A Yes.

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1 Q Okay. So that was -- that reflects the
2 entity with which the contractor, the architects
3 entered into the contract?

4 The owner being GSFIC working on behalf of
5 Georgia Department of Education?

6 A That's correct.

7 MS. TAYLOE: Now I'd like to ask for
8 document 04089630 to be marked as Exhibit 130.

9 (WHEREUPON, Defendant's Exhibit-130 was
10 marked for identification.)

11 (Witness reviews exhibit.)

12 A Okay.

13 Q This is an email from you to Pat Schofill,
14 dated January 8th -- wait a minute.

15 MS. TAYLOE: I'm sorry, that was the wrong
16 document.

17 We're going to be looking at GA04089636.
18 (Witness reviews exhibit.)

19 MS. TAYLOE: Can we go off the record for
20 a second.

21 THE VIDEOGRAPHER: Off the record at 3:24
22 p.m.

23 (Discussion ensued off the record.)

24 THE VIDEOGRAPHER: Back on the record at
25 3:24 p.m.